

Loan File Reunderwriting Protocol Status Report

Via ECF (S.D.N.Y. and C.D. Cal.) and Email (D. Kan.)

March 6, 2015

The Honorable Denise L. Cote
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

The Honorable John W. Lungstrum
The Honorable James P. O'Hara
United States District Court for the District of Kansas
500 State Avenue, Suite 517
Kansas City, KS 66101

The Honorable George H. Wu
United States District Court for the Central District of California
312 North Spring Street
Los Angeles, CA 90012-4701

Re: *NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.) and related actions

Dear Judges Cote, Lungstrum, Wu, and O'Hara:

Pursuant to § (g) of the Loan File Reunderwriting Protocol ("LFRP") (ECF No. 100) and the Courts' July 14, 2014 Order (ECF No. 174) and the Courts' December 12, 2014 Order (ECF No. 230),¹ the parties respectfully submit this status report "as to identification and production by Defendant Groups and third-parties of Loan Files and Guidelines for the Sampled Loans, and as to the status of above-described stipulations."

I. Collection of Loan Files and Guidelines

A. Defendants' Productions of Loan Files and Guidelines. Pursuant to §§ (b) and (c) of the LFRP, Defendants have identified the Loan Files and Guidelines for the Sampled Loans in their possession, custody, or control that they expected to produce to NCUA. Defendants in aggregate have sent approximately 200 notices to third-parties seeking consent to re-produce Loan Files and Guidelines produced by the third-parties in response to subpoenas in other RMBS actions. Defendants reasonably believe that they have produced all Loan Files and Guidelines for the Sampled Loans in their possession, custody, or control that they expect to produce to NCUA.²

B. NCUA's Subpoenas for Loan Files and Guidelines. NCUA has issued over 350 subpoenas to third-parties seeking Loan Files and Guidelines for the Sampled Loans. To

¹ Unless otherwise noted, ECF references are to *NCUA v. Morgan Stanley & Co.*, No. 13-6705 (S.D.N.Y.).

² Wachovia did not have any Loan Files for the Sampled Loans in its possession, custody, or control.

date, NCUA has collected loan file documents relating to approximately 25,841 of the 26,597 Sampled Loans at issue in these actions. NCUA has also collected thousands of potentially applicable underwriting guidelines. NCUA is processing, Bates stamping (if necessary), and reproducing these documents to Defendants. As of this report, NCUA has produced to Defendants all documents relating to loan files and underwriting guidelines that were produced by third-parties on or before February 27, 2015, except for four third-party productions that will be produced this week. NCUA continues to meet-and-confer with numerous third-parties regarding outstanding loan files and underwriting guidelines.

C. Defendants' Subpoena for Loan Files and Guidelines. RBS has issued one subpoena to a third-party seeking loan files. Other Defendants have not issued subpoenas seeking loan files or underwriting guidelines.

* * *

Appendix 1 provides the status of the parties' efforts to collect loan files for each action. Because the parties are attempting to determine the most appropriate Guidelines for the Sampled Loans through the stipulation process, the parties are currently unable to quantify the status of the collection of Guidelines applicable to the Sampled Loans.

II. Stipulations Regarding Loan Files and Guidelines

Pursuant to §§ (e) and (f) of the LFRP, NCUA has proposed loan file and guideline stipulations to Barclays, Nomura, RBS, Credit Suisse, Goldman Sachs, UBS, and Morgan Stanley, and Wachovia. Appendix 2 provides the status of these stipulations. The parties will cooperate in good faith regarding these stipulations and will raise any issues with the Court.

Respectfully submitted,

/s/ David C. Frederick

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cc: Counsel of Record (via ECF or Email)

Re: *NCUA v. RBS & Wachovia*, Nos. 11-2340 & 11-2649
NCUA v. Credit Suisse Securities (USA) LLC, No. 12-2648
NCUA v. UBS Securities, LLC, No. 12-2591
NCUA v. Morgan Stanley & Co., No. 13-2418

Re: *NCUA v. Goldman, Sachs & Co.*, No. 11-6521
NCUA v. RBS Securities, LLC, No. 11-5887

Appendix 1

Defendant Group	Sampled Loans as to Which Defendants Produced Loan Files	Sampled Loans as to Which NCUA Collected Loan Files from Third-Parties ¹	Sampled Loans as to Which Loan Files Have Been Produced by Any Party or Third-Party	Total Number of Sampled Loans	Percentage of Sampled Loans Collected	Potential Custodians for Missing Loan Files (Bold indicates a third-party that has been subpoenaed by NCUA) ²
Barclays	398	1659	1799	1800	99.9%	Wells Fargo Bank, N.A.
Credit Suisse	1000	2066	2968	3000	99%	
Goldman Sachs	422	2712	2919	3000	97%	First Banc Mortgage, Corp.
Morgan Stanley	1429	4103	4996	5197	96%	Decision One Mortgage Company, LLC

¹ Numbers reported in this column and the other columns incorporating data about the production of loan files in response to NCUA's subpoenas to third parties are as represented by NCUA.

² Certain entities disclosed by Defendants to NCUA as potential custodians of outstanding Loan Files or Guidelines are omitted from this column based on NCUA's understanding that such entities do not in fact have relevant documents relating to the missing Loan Files.

Defendant Group	Sampled Loans as to Which Defendants Produced Loan Files	Sampled Loans as to Which NCUA Collected Loan Files from Third-Parties ¹	Sampled Loans as to Which Loan Files Have Been Produced by Any Party or Third-Party	Total Number of Sampled Loans	Percentage of Sampled Loans Collected	Potential Custodians for Missing Loan Files (Bold indicates a third-party that has been subpoenaed by NCUA) ²
Nomura	595	0	595	600	99%	Mutual of Omaha Bank; NovaStar; Ocwen Loan Servicing, LLC; Wells Fargo Bank, N.A
Novastar	62	229	283	400	71%	NovaStar; Ocwen Loan Servicing, LLC; Saxon Mortgage Services, Inc.
RBS	1329	7810	8405	8800	96%	Amerquest Mortgage Co.; BankUnited, N.A.; Brooks America Mortgage Corp.; BSM Financial LP; Cenlar, FSB; Central Mortgage Company; First Federal; GMAC Mortgage Comp; Homecomings Financial; FDIC as Receiver for IndyMac Bank, F.S.B; INMC; Green Tree Servicing LLC; JPMorgan Chase Bank, N.A; Just Mortgage, Inc.; LBMC; Lending First Mortgage LLC; Loan Center of California, Inc.; Loan Link Financial Services; Mortgage Store; Mutual of Omaha Bank; Nationstar Mortgage LLC; NetBank; NovaStar; Ocwen Loan Servicing, LLC; Paul Financial, LLC; Plaza Home Mortgage, Inc.; Residential Capital, LLC; Pro30Funding; Residential Funding Company, LLC; RPM; Secured Bankers Mortgage Company; Saxon Mortgage Services, Inc.; Select Portfolio Servicing; Silver State Financial Services, Inc., d/b/a Silver State Mortgage; Specialized Loan Servicing; Washington Mutual Mortgage Securities Corp.; Wells Fargo Bank, N.A.; Wells Fargo Bank, N.A (Virtual Bank)
UBS	447	4283	4559	4600	99%	
Wachovia	0	678	678	800	85%	American Mortgage Network, Inc.; NovaStar; Ocwen Loan Servicing; Saxon Mortgage Services, Inc.; Wells Fargo Bank, N.A

Appendix 2

Defendant Group	Number of Stipulations Proposed by NCUA	Number of Stipulation Responses by Defendant	Number of Stipulations Proposed by NCUA for Which a Response Has Been Due	Number of Loan File Stipulations Reached	Number of Sampled Loans for Which Defendant Proposed A Loan File Stipulation, But No Stipulation Yet Reached	Number of Stipulations Reached as to Guideline and Matrix	Number of Sampled Loans for Which Defendant Proposed A Guideline or Matrix Stipulation, But No Stipulation Yet Reached	Total Number of Sampled Loans	Percentage of Sampled Loans With Loan File Stipulations	Percentage of Sampled Loans With Stipulations as to Guideline and Matrix
Barclays	797	797	797	725	16	492	300	1800	40.3%	27.3%
Credit Suisse	1605	1594	1594	1573	1	1031	35	3000	52.4%	34.4%
Goldman Sachs	2134	1799	1799	1551	0	1555	140	3000	51.7%	51.8%
Morgan Stanley	946	946	946	794	152	732	214	5197	15.2%	14.1%
Nomura	194	98	98	0	82	0	76	600	0%	0%
Novastar	0	0	0	0	0	0	0	400	0%	0%
RBS	3037	2433	2433	2002	73	1488	942	8800	22.8%	16.9%
UBS	2280	2280	2280	2095	58	731	482	4600	45.6%	15.9%
Wachovia	97	97	97	92	5	0	97	800	11.5%	0%